

Callahan, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WESTERN BULK CARRIERS AS and
WESTERN BULK CHARTERING AS
individually and on behalf of
M/V LONG LUCKY (IMO No. 9471654)

Plaintiffs,

- against -

O.W. BUNKER & TRADING A/S, O.W.
SUPPLY & TRADING A/S, U.S. OIL
TRADING, LLC AND ING BANK N.V.

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/22/2015

15 *OV* 8304
15 Civ. _____ ()

PROPOSED ORDER

This Rule 9(h) maritime matter comes before the Court on the Application for Restraining Order pursuant to 28 U.S.C. § 2361 of the Federal Interpleader Act filed by Western Bulk Carriers AS ("WB Carriers") and Western Bulk Chartering As ("WB Chartering") (collectively, "Western Bulk" or "Plaintiffs") individually and on behalf of the vessel M/V Long Lucky (the "Vessel"). Upon consideration of the Application for Restraining Order, the accompanying Memorandum of Law, and the documents filed in this action, and

WHEREAS Plaintiffs have established the procedural prerequisites of 28 U.S.C. § 1335 in that 1) the funds in the Plaintiffs' custody exceeds \$500; 2) minimal diversity exists among the claimants; and 3) the Court has granted Plaintiffs' application to deposit the funds into the Court's registry; and

WHEREAS on November 1, 2014 the sale and delivery of bunker fuel was made to the Vessel in the Port of Tacoma, Washington and a corresponding invoice was issued by O.W.

Bunker & Trading A/S to WB Carriers for fuel totaling the amount of \$115,766.23 (the "Fuel Delivery"); and

WHEREAS Plaintiffs have demonstrated that a restraining order is justified to protect Western Bulk from multiple litigation against them for the same claims and against the Vessel *in rem* for payment on the same fuel parcel; it is hereby

ORDERED that the claimants in this action are restrained and enjoined from instituting or prosecuting any proceeding in any state court, or in any United States District Court, affecting the property and *res* involved in this action of interpleader, including but not limited to the arrest or attachment of the vessel M/V Long Lucky pursuant to Supplemental Admiralty Rule C or Rule B or other laws to enforce claimants' maritime lien or other claims arising from the Fuel Delivery until the further order of the court; and it is further

ORDERED that upon deposit of the funds into the Court's registry, such funds will stand as and shall be the substituted *res* for the Vessel and the maritime lien claims of any claimant arising from or related to the subject matter of this interpleader will be and are transferred from the Vessel to the funds on deposit and any claimant may assert a maritime lien or other claim in the District against the funds for payment on the Fuel Delivery, all subject to further litigation among the competing claimants; and it is further

ORDERED that the amount on deposit is deemed good and sufficient security for claimants' *in rem* maritime lien claims, constituting the invoiced amount plus 6% interest per annum as under Supplemental Admiralty Rule E(5)(a); and it is further

ORDERED that sufficient security in the amount of \$122,712.20 having been ordered deposited into the registry of the court as substitute *res* and security for all claims arising for payment of the Fuel Delivery to the Vessel on November 1, 2014, further action against the

Vessel or Western Bulk shall not be brought anywhere in the world by any of the named defendants to secure or assert such claims; and it is further

ORDERED that if the claims have not been resolved by October 22, 2016, ~~the Court may~~
^{the} ~~order that~~ Plaintiff shall deposit an additional 6% of the invoiced amount to maintain adequate security through the substitute *res*; and it is further

ORDERED that Plaintiff shall serve a copy of this Order along with the Summons and Complaint in this action on each defendant; and it is further

ORDERED that if Plaintiff learns of any other claimant who intends to assert a claim related to the subject matter of this action, then Plaintiff will promptly serve a copy of this Order (and related papers) on such claimant who then will be bound thereby; and it is further

ORDERED that Plaintiff shall provide notice of this Order by email where possible and such notice shall be deemed good and sufficient; and it is further

ORDERED that any claimant may, upon proper motion allowing adequate time for briefing, request that this Order be set aside or modified.

SO ORDERED, this 22 day of October, 2015.

10:00 am


United States District Judge, S.D.N.Y.

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